

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1129 – SB 1744

May 4, 2010

SUMMARY OF AMENDMENTS (015015, 016705, 017691, 017828):

Amendment 015015 deletes the provision in the original bill that states the presumptive sentence for a violation of a Class A drug offense, pursuant to Tenn. Code Ann. § 39-17-417, which occurs within the prohibited zone shall be the maximum within the range. Requires any defendant who is sentenced for such violation, in addition to any other condition of probation or parole, to perform community service work at regular intervals and in an amount to be determined by the sentencing judge for any period of time during which the defendant is not incarcerated due to the suspension of the defendant's sentence or the defendant being granted parole.

Amendment 016705 changes the effective date to July 1, 2010, rather than July 1, 2009.

Amendment 017691 requires any person convicted of such violation within any prohibited zone to be subject to additional fines imposed by this bill but not subject to additional incarceration.

Amendment 017828 corrects a typographical error in Section 3 of the original bill. Expands the "Drug-Free School Zone" to include any sexual offense, any felony involving a deadly weapon, and carjacking committed on school grounds or within 1,000 feet of any public or private school, preschool, child care agency, public library, recreational center or park. Persons who commit these offenses on the grounds of or within 1000 feet of any preschool, child care agency, public library, recreational center or park shall be subject to fines ranging from a maximum \$10,000 for a Class E felony to a maximum \$100,000 for a Class A felony in addition to any other penalty imposed. If the offense is currently a Class A felony, the presumptive sentence shall be the maximum within the range.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$44,300/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Expenditures - \$43,700/Incarceration*

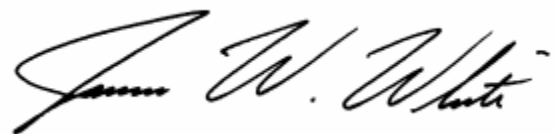
Assumptions applied to amendments:

- The presumptive sentence for a violation of a Class A drug offense, pursuant to Tenn. Code Ann. § 39-17-417, which occurs within the prohibited zone shall be the maximum within the range (25 years).
- According to the Department of Correction (DOC), there has been an average of 34.8 admissions for Class A felony drug offenses in each of the past 10 years. According to DOC, the average post-conviction time served for a Class A felony is 15.01 years. Assuming that 0.5 percent of those offenses were committed within the prohibited zone, the Department estimates one offender every five years will serve an additional 9.99 years (25 years maximum – 15.01 average post-conviction time served) as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every five years serving additional time on their sentence. The annualized time served per conviction is 729.77 days (0.20 annual number of convictions x 3,648.85 additional days served). According to DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86. The annualized cost per conviction is \$43,684.03 (\$59.86 x 729.77 days).
- Due to the small number of offenders, no recidivism discount has been applied for these Class A felony drug offenses.
- Estimate assumes an increase in state and local revenue as a result of the higher fines imposed on the violators of non-drug offenses which occur within the prohibited zones. Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of the mandatory additional fines for these offenses.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a long horizontal stroke at the end.

James W. White, Executive Director

/lsc